

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Charles Edward Atwell,

Plaintiff,

v.

Jennifer Ann Evatt-Gilstrap, an
individual; Deborah Ann Johnson, an
individual; and Woodbury Financial
Services, a corporation,

Defendants.

C/A No. 8:07-cv-0703-GRA-WMC

ORDER
(Written Opinion)

This matter comes before the Court for a review of the magistrate's Report and Recommendation filed on June 6, 2007, and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2), D.S.C. The plaintiff filed this action on March 13, 2007, alleging "intentional interference with prospective contractual relations," defamation, conspiracy, intentional infliction of emotional distress, fraud, constructive fraud, "failure to act properly in assumption of duty," duress, negligence, and "unfair termination of contract." On April 16, 2007, the magistrate judge ordered the plaintiff to bring his cause into proper form pursuant to certain guidelines provided by the Court. The magistrate judge also ordered the plaintiff to keep the Court advised of any changes in address. In this Order, the magistrate judge specifically warned Plaintiff that if he "does not bring this case into proper form within the time permitted under this Order, this case could be dismissed for failure to prosecute." Order of April

16, p. 1. Plaintiff has not filed any response to this Order or attempted to bring his case into proper form.

In his Report and Recommendation, the magistrate now recommends dismissing this action for Plaintiff's failure to respond as ordered by the magistrate on April 16, 2007. For the reasons stated herein, the recommendation of the magistrate is adopted, and the case is DISMISSED.

Plaintiff brings this action *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

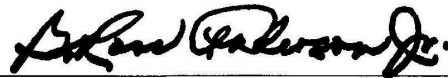
The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.*

In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The plaintiff has not filed objections to the Report and Recommendation.

After a review of the magistrate's Report and Recommendation, this Court finds the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that this action be DISMISSED *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

July 19, 2007

Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.